



February 15, 2008

ENGROSSED HOUSE BILL No. 1122

DIGEST OF HB 1122 (Updated February 13, 2008 11:52 am - DI 106)

Citations Affected: IC 31-30; IC 31-37.

Synopsis: Juvenile offenders and detention facilities. Provides that the juvenile law does not apply to a child who: (1) is alleged to have committed a crime that would be a felony if committed by an adult; and (2) has previously been waived to a court having felony jurisdiction. (Under current law, the juvenile law does not apply to felonies and misdemeanors committed under these circumstances.) Provides that the juvenile law applies to a child who allegedly committed a violation of certain traffic laws. Provides that a juvenile court does not have jurisdiction over an alleged violation of a child charged with carrying a handgun without a license or dangerous possession of a firearm as a felony. Provides that a juvenile court may waive jurisdiction if a child is charged with certain acts that are felonies (rather than felonies and misdemeanors). Provides that any facility that is used or has been used to house or hold juveniles shall give the Indiana criminal justice institute access to inspect and monitor the facility.

Effective: July 1, 2008.

Reske, Austin

(SENATE SPONSORS — BRAY, LANANE)

January 8, 2008, read first time and referred to Committee on Judiciary.
January 16, 2008, amended, reported — Do Pass.
January 24, 2008, read second time, amended, ordered engrossed.
January 25, 2008, engrossed.
January 28, 2008, read third time, passed. Yeas 91, nays 0.

SENATE ACTION

January 29, 2008, read first time and referred to Committee on Judiciary.
February 14, 2008, amended, reported favorably — Do Pass.

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EH 1122—LS 6901/DI 107+



February 15, 2008

Second Regular Session 115th General Assembly (2008)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2007 Regular Session of the General Assembly.

ENGROSSED HOUSE BILL No. 1122

A BILL FOR AN ACT to amend the Indiana Code concerning family law and juvenile law.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 31-30-1-2 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Except as provided
3 in IC 33-33-45-6 and section 8 of this chapter, the juvenile law does
4 not apply to the following:

5 ~~(1) A child at least sixteen (16) years of age who allegedly~~
6 ~~committed a violation of a traffic law; the violation of which is a~~
7 ~~misdemeanor; unless the violation is an offense under IC 9-30-5.~~

8 ~~(2) (1) A child who is alleged to have committed a violation of a~~
9 ~~statute defining an infraction, except as provided under~~
10 ~~IC 7.1-5-7.~~

11 ~~(3) (2) A child who is alleged to have committed a violation of an~~
12 ~~ordinance.~~

13 ~~(4) (3) A child who:~~

14 (A) is alleged to have committed an act that would be a ~~crime~~
15 **felony** if committed by an adult; and

16 (B) has previously been waived under IC 31-30-3 (or
17 IC 31-6-2-4 before its repeal) to a court having ~~misdemeanor~~

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EH 1122—LS 6901/DI 107+



or felony jurisdiction.

SECTION 2. IC 31-30-1-4, AS AMENDED BY P.L.216-2007, SECTION 35, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 4. (a) The juvenile court does not have jurisdiction over an individual for an alleged violation of:

- (1) IC 35-41-5-1(a) (attempted murder);
- (2) IC 35-42-1-1 (murder);
- (3) IC 35-42-3-2 (kidnapping);
- (4) IC 35-42-4-1 (rape);
- (5) IC 35-42-4-2 (criminal deviate conduct);
- (6) IC 35-42-5-1 (robbery) if:
 - (A) the robbery was committed while armed with a deadly weapon; or
 - (B) the robbery results in bodily injury or serious bodily injury;
- (7) IC 35-42-5-2 (carjacking);
- (8) IC 35-45-9-3 (criminal gang activity);
- (9) IC 35-45-9-4 (criminal gang intimidation);
- (10) IC 35-47-2-1 (carrying a handgun without a license), **if charged as a felony**;
- (11) IC 35-47-10 (children and firearms), **if charged as a felony**;
- (12) IC 35-47-5-4.1 (dealing in a sawed-off shotgun); or
- (13) any offense that may be joined under IC 35-34-1-9(a)(2) with any crime listed in subdivisions (1) through (12);

if the individual was at least sixteen (16) years of age at the time of the alleged violation.

(b) The juvenile court does not have jurisdiction for an alleged violation of manufacturing or dealing in cocaine or a narcotic drug (IC 35-48-4-1), dealing in methamphetamine (IC 35-48-4-1.1), dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2), or dealing in a schedule IV controlled substance (IC 35-48-4-3), if:

- (1) the individual has a prior unrelated conviction under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3; or
- (2) the individual has a prior unrelated juvenile adjudication that, if committed by an adult, would be a crime under IC 35-48-4-1, IC 35-48-4-1.1, IC 35-48-4-2, or IC 35-48-4-3;

and the individual was at least sixteen (16) years of age at the time of the alleged violation.

(c) Once an individual described in subsection (a) or (b) has been charged with any crime listed in subsection (a) or (b), the court having adult criminal jurisdiction shall retain jurisdiction over the case even if the individual pleads guilty to or is convicted of a lesser included

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1 offense. A plea of guilty to or a conviction of a lesser included offense
2 does not vest jurisdiction in the juvenile court.

3 SECTION 3. IC 31-30-3-2 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2008]: Sec. 2. Upon motion of the
5 prosecuting attorney and after full investigation and hearing, the
6 juvenile court may waive jurisdiction if it finds that:

7 (1) the child is charged with an act **that is a felony:**

8 (A) that is heinous or aggravated, with greater weight given to
9 acts against the person than to acts against property; or

10 (B) that is a part of a repetitive pattern of delinquent acts, even
11 though less serious;

12 (2) the child was at least fourteen (14) years of age when the act
13 charged was allegedly committed;

14 (3) there is probable cause to believe that the child committed the
15 act;

16 (4) the child is beyond rehabilitation under the juvenile justice
17 system; and

18 (5) it is in the best interests of the safety and welfare of the
19 community that the child stand trial as an adult.

20 SECTION 4. IC 31-37-4-4 IS ADDED TO THE INDIANA CODE
21 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
22 1, 2008]: **Sec. 4. Any facility that is used or has been used to house
23 or hold juveniles shall give a representative or designee of the
24 Indiana criminal justice institute's compliance monitoring
25 program reasonable access to inspect and monitor the facility to
26 ensure that the requirements of the Juvenile Justice and
27 Delinquency Prevention Act are maintained.**

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Judiciary, to which was referred House Bill 1122, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 3, line 22, delete "detain" and insert "**house or hold**".

Page 3, line 23, after "representative" insert "**or designee**".

and when so amended that said bill do pass.

(Reference is to HB 1122 as introduced.)

LAWSON L, Chair

Committee Vote: yeas 9, nays 0.

 HOUSE MOTION

Mr. Speaker: I move that House Bill 1122 be amended to read as follows:

Page 2, line 19, delete "if" and insert "if:

(A) **charged as a felony; or**

(B) **the individual has:**

(i) **a prior unrelated conviction; or**

(ii) **an unrelated adjudication as a delinquent child for an act that would be an offense under IC 35-47-2-1 if committed by an adult;".**

Page 2, delete line 20.

Page 2, line 21, delete "if charged as a felony;" and insert "if:

(A) **charged as a felony; or**

(B) **the individual has:**

(i) **a prior unrelated conviction; or**

(ii) **an unrelated adjudication as a delinquent child for an act that would be an offense under IC 35-47-10 if committed by an adult;".**

(Reference is to HB 1122 as printed January 17, 2008.)

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SENATE MOTION

Madam President: I move that Senator Lanane be added as cosponsor of Engrossed House Bill 1122.

BRAY

COMMITTEE REPORT

Madam President: The Senate Committee on Judiciary, to which was referred House Bill No. 1122, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 19, delete ":" and insert "**charged as a felony**";.

Page 2, delete lines 20 through 25.

Page 2, line 26, delete ":" and insert "**charged as a felony**";.

Page 2, delete lines 27 through 32.

and when so amended that said bill do pass.

(Reference is to HB 1122 as reprinted January 25, 2008.)

BRAY, Chairperson

Committee Vote: Yeas 6, Nays 0.

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